



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

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OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

**MEMORANDUM**

SUBJECT: Revision of Area Contingency Plans/Regional Contingency Plans Regarding Use of Dispersants on Oil Spills – Interim Actions

FROM: Mathy Stanislaus  
Assistant Administrator

A handwritten signature in black ink, appearing to read "Mathy Stanislaus", is written over the printed name and title.

TO: Regional Administrators

Experiences and knowledge gained in the Gulf should and must inform our future response activities. Accordingly, the agency is using this information to engage federal partners via the National Response Team (NRT) to reassess dispersant use guidelines under the National Contingency Plan (NCP) for future oil spills. In addition, we are initiating review of the criteria and testing requirements under Subpart J of the NCP for listing and delisting dispersants and other chemical countermeasures. This review will also examine the different conditions, circumstances, and durations of oil spills and how that affects the use of certain chemical countermeasures.

Until the NCP and Subpart J Product Schedule are revised, and to help guide those decisions, I request that Regional Administrators ensure Regional Response Team (RRT) representatives work with RRT partners to implement the following changes via revisions to Area Contingency Plans (ACP) and Regional Contingency Plans (RCP) with respect to dispersants and other chemical countermeasures:

- Develop a hierarchy of preferred oil spill response measures. During the BP Oil response, the following hierarchy was established and supported by the public: mechanical recovery (such as skimming/booming, controlled burning) followed by subsea dispersants, and surface dispersants.
- Site-specific and oil-specific rationale for, and conditions/limitations to, the use of dispersants and other chemical countermeasures should be well documented as part of the plan:
  - Rationale includes identification of environmental tradeoffs (e.g., proximity to shorelines including wetlands) and net environmental benefits, and documenting these, as appropriate to the length of the response and size of the spill;



- Conditions/limitations include:
  - Identification of favorable operational conditions for dispersant application (e.g., mixing energy, water depth, wind speed, distance from shorelines and/or populations), as well as methods to ensure that only the amount necessary is used (e.g., flying patterns and dispersant application locations, effectiveness);
  - Upfront monitoring protocols (e.g., SMART Level 3 with additional data collection), recordkeeping, and data parameters that govern rates and amounts of dispersants, coordinated with a regular re-evaluation of the operational conditions noted above.
- In longer-term responses, the ACP/RCP should include a process for regularly re-evaluating whether there is a continued need for dispersants. For example, this may include ongoing testing regarding effectiveness and impacts, addressing the local environment and/or the anticipated possible nature of locally spilled oil. Re-evaluation also includes identification of initial approval and shut-down criteria, and steps to modify these criteria if needed for individual responses;
- ACPs/RCPs should specify steps that will be taken to ensure that data and decisions are publicly transparent, and that decisions are reached with public outreach and involvement to the maximum extent possible given the nature of the spill;
- Specific roles and responsibilities for dispersant and chemical use (e.g. re-evaluation, making data and decisions public, decisions to stop application) should be clearly identified in the ACP/RCP; and,
- Each ACP's/RCP's Endangered Species Act (ESA) Emergency Consultation protocol should be reviewed, with consideration given to updating the procedures and incorporating lessons learned in more recent experiences. ESA section 7 consultations conducted on the ACPs/RCPs themselves should also be reviewed in light of current information. As appropriate, section 7 consultations on the ACPs/RCPs should be reinitiated with the ESA Wildlife Services to address new information and to ensure that consultation on the use of dispersants is included.

To ensure national consistency as appropriate, I am asking Dana Tulis and her Office of Emergency Management to be consulted on major issues associated with this interim effort, to collect best practices as ACPs/RCPs are revised, and to serve as a clearinghouse and source of advice and expertise as issues are addressed. As the Chair of the NRT, Dana will coordinate the issues with other NRT member agencies and with the RRT co-chairs. Please respond via email to Dana Tulis with recommended changes by December 30, 2010.

Thank you in advance for your efforts to make use of the new information the agency has to assist responders and to make decisions that protect both human health and the environment.

cc: Deputy Regional Administrators

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